

### Subpart D—Public Health Service Grant Appeals Procedure

AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3(c).

SOURCE: 54 FR 34770, Aug. 22, 1989, unless otherwise noted.

#### § 50.401 What is the purpose of this subpart?

This subpart establishes an informal procedure for the resolution of certain postaward grant and cooperative agreement disputes within the agencies and offices identified in § 50.402.

[63 FR 66062, Dec. 1, 1998]

#### § 50.402 To what programs do these regulations apply?

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the National Institutes of Health; the Health Resources and Services Administration; the Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Food and Drug Administration; and the Office of the Assistant Secretary for Public Health and Science. For purposes of this regulation, the entities are hereinafter referred to as “agencies.”

[63 FR 66062, Dec. 1, 1998]

#### § 50.403 What is the policy basis for these procedures?

The Secretary of Health and Human Services has established a Departmental Appeals Board for the purpose of providing a fair and flexible process for the appeal of written final decisions involving certain grant and cooperative agreement programs administered by constituent agencies of the Department. The regulatory provision which establishes the circumstances under which the Board will accept an appeal (45 CFR 16.3) provides, among other things, that the appellant must have exhausted any preliminary appeal process required by regulation before a formal appeal to the Departmental Board will be allowed. This subpart provides such an informal preliminary procedure for resolution of disputes in order to preclude submission of cases

to the Departmental Appeals Board before an agency identified in § 50.402 has had an opportunity to review decisions of its officials and to settle disputes with grantees.

[54 FR 34770, Aug. 22, 1989, as amended at 63 FR 66062, Dec. 1, 1998]

#### § 50.404 What disputes are covered by these procedures?

(a) These procedures are applicable to the following adverse determinations under discretionary project grants and cooperative agreements (both referred to in this subpart as grants) issued by the agencies identified at § 50.402:

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project in accordance with the applicable law and the terms and conditions of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) A determination that a grant is void.

(4) A denial of a noncompeting continuation award under the project period system of funding where the denial is for failure to comply with the terms of a previous award.

(b) A determination subject to this subpart may not be reviewed by the review committee described in § 50.405 unless an officer or employee of the agency has notified the grantee in writing of the adverse determination. The notification must set forth the reasons for the determination in sufficient detail to enable the grantee to respond and must inform the grantee of the opportunity for review under this subpart.

[54 FR 34770, Aug. 22, 1989, as amended at 63 FR 66062, Dec. 1, 1998]

#### § 50.405 What is the structure of review committees?

The head of the agency, or his or her designee, shall appoint review committees to review adverse determinations made by officials for programs under